

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Cr. No. 16-20291

v.

Hon. Nancy G. Edmunds

ISAAC JAMES HARGROVE,

Defendant.

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**THIRD SUPPLEMENTAL BRIEF AND EXHIBIT IN SUPPORT OF  
ISAAC HARGROVE'S MOTION FOR COMPASSIONATE RELEASE**

On August 4, 2020, Isaac Hargrove filed a motion for compassionate release citing his serious health conditions and the COVID-19 pandemic are extraordinary as extraordinary and compelling reasons to grant compassionate release. Since that time, Mr. Hargrove's conditions have worsened. In addition, the number of COVID-19 cases and related hospitalizations are rising sharply across the country, including in West Virginia.<sup>1</sup> All the while, Mr. Hargrove remains in a confined space where he cannot take appropriate measures to care for his hygiene. This Court should grant compassionate release.

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<sup>1</sup> N.Y. Times, *Covid in the U.S.: Latest Map and Case Count* (Oct. 26, 2020), <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html?action=click&module=Top%20Stories&pgtype=Homepage>.

**A. Mr. Hargrove has numerous medical conditions that the CDC recognizes are risk factors for severe COVID-19 illness.**

Mr. Hargrove's chronic health conditions are numerous:

- Blood disease
- Type 2 diabetes mellitus
- Severe Obesity with a BMI of 42.4
- Hyperlipidemia (high cholesterol with a 10-year risk of 5%)
- A possible sleep disorder
- Hemiplegia (paralysis of one side of the body from Brown-Sequard syndrome)
- Paralytic syndrome
- Essential hypertension
- Chronic ischemic heart disease
- Non-rheumatic aortic valve disorder
- Atrial fibrillation
- A ruptured aortic aneurysm
- Gastro-esophageal reflux disease with esophagitis
- Myopia
- Gout
- Polyarthrititis
- Right foot drop from a traumatic stab wound
- Abnormal breathing
- Chest pain

The CDC has identified ten medical conditions that place an adult of any age “at increased risk of severe illness from the virus that causes COVID-19.”<sup>2</sup> Mr. Hargrove

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<sup>2</sup> Centr. for Disease Control, *People at Increased Risk: People with Certain Medical Conditions*, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html) (last accessed Oct. 26, 2020).

has been diagnosed with three of those conditions: heart failure, severe obesity, and type 2 diabetes. In addition, there are 12 additional conditions that might place an adult of any age at an increased risk for severe illness of which Mr. Hargrove has two: hypertension and a neurologic condition (Brown-Sequard syndrome). His recent hospitalization and surgeries have also weakened his immune system.

**B. Mr. Hargrove's cardiac conditions have worsened.**

Mr. Hargrove has had an ascending aortic aneurysm for some time. But on September 1, 2020, he began experiencing pain in his chest that radiated towards his back. He was taken to the hospital, doctors performed a CT scan and discovered that he had two aortic aneurysms. They concluded that his critical condition required emergency heart surgery. (Ex. H, Med. Recs at 244) On September 2, Mr. Hargrove underwent a valve replacement, aortic root replacement, coronary artery re-implantation, and an ascending aorta replacement. (*Id.* at 243) Follow-up care required significant attention because his post-operative conditions have “a high probability of sudden, clinically significant or life-threatening deterioration.” (*Id.* at 105) During the surgery, Mr. Hargrove's blood pressure dropped, and medical staff had to perform CPR for five minutes. (*Id.* at 104)

While Mr. Hargrove was recovering from heart surgery, he slipped into atrial fibrillation, an irregular heart rate that is often the result of poor blood flow. (*Id.* at 83) Medical staff were able to restore Mr. Hargrove's heart to a regular rhythm, but atrial

fibrillation is now an additional lifelong cardiac condition he will have to manage with blood thinners. (*Id.* at 16)

Although we still know little about COVID-19, researchers have found that a COVID-19 infection worsens existing atrial fibrillation.<sup>3</sup> Indeed, one study found that 42% of all people who did not survive COVID-19 had a history of atrial fibrillation.<sup>4</sup> Another study found that up to 75% older patients hospitalized due to COVID-19 had a history of atrial fibrillation.<sup>5</sup>

Since returning to prison after surgery, Mr. Hargrove has continued to have difficulty. On October 6, 2020, he had to see medical staff because of his elevated blood pressure. (Ex. H, Med. Recs at 11) And, just last week, Mr. Hargrove was experiencing chest pain below his sternum, which became worse with increased activity and laying down. Medical staff noted that he had a fever, chills, sweats, fatigue, and notable weight loss. Doctors decided to take him to the hospital. (*Id.* at 2) Undersigned counsel does not know his current condition.

Mr. Hargrove's cardiac conditions are incredibly serious. So far, he has managed to avoid a COVID-19 infection. (*Id.* at 172, 360) If he does contract the virus, however, his numerous cardiac conditions make him particularly at risk for severe illness or death.

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<sup>3</sup> Gawalko, Monika et al., *COVID-19 associated atrial fibrillation: Incidence, putative mechanisms and potential clinical implications*, 30 *Intn'l J. of Cardiology. Heart & Vasculature* (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7462635/>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

### **C. Mr. Hargrove has been diagnosed with Type 2 Diabetes.**

While in the hospital, doctors referred Mr. Hargrove to an endocrinologist because of his elevated blood sugar. They had difficulty obtaining his A1c numbers because of his history of sickle cell trait. Eventually, the endocrinologist was able to confirm a diagnosis of Type 2 diabetes mellitus, and prescribed a diabetic and cardiac diet, as well as insulin injections.

The CDC lists Type II diabetes as one of the conditions that “increases your risk of severe illness from COVID-19.”<sup>6</sup> Diabetes is particularly well established to be a risk factor for severe illness and complications from COVID-19. (*See* Ex. I, Edelman Decl.) The American Diabetes Association reports that people with diabetes are more likely to experience severe symptoms from COVID-19, and that having other conditions could worsen the chances of getting seriously ill.<sup>7</sup> The ADA explains that viral infections increase inflammation in people with diabetes, which contributes to more

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<sup>6</sup> CDC, *People at Increased Risk: People with Certain Medical Conditions*, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html) (last accessed Oct. 26, 2020).

<sup>7</sup> American Diabetes Association, *Letter to Detention Centers* (March 2020), <https://www.diabetes.org/sites/default/files/2020-03/COVID-19%20Letter%20to%20Detention%20Centers.pdf>.

severe complications.<sup>8</sup> Viruses like coronavirus also increase the risk of diabetic ketoacidosis, a condition that makes managing fluid intake and electrolyte levels difficult, which can contribute to sepsis and shock.<sup>9</sup> The data bears this out. One recent study showed that “[o]ne in 10 coronavirus patients with diabetes died within the first seven days of hospitalization, and one in five needed a ventilator to breathe.”<sup>10</sup>

In other cases, the government has conceded that the combination of COVID-19 and Type II diabetes constitute an “extraordinary and compelling” reason within the meaning of § 3582(c).<sup>11</sup> This Court, as well as other judges in this district alone have granted compassionate release on this basis.<sup>12</sup> And this district is not alone.<sup>13</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> CNN, *One in 10 Covid-19 patients with diabetes die within a week, study finds* (May 29, 2020), <https://www.cnn.com/2020/05/29/health/diabetes-study-covid-19-deaths/index.html>.

<sup>11</sup> *United States v. Ford*, No. 00-80974, Dkt. # 112, Gov’t Resp., PgID 378).

<sup>12</sup> *United States v. Rahim*, No. 16-20433, 2020 WL 2604857, at \*2–3 (E.D. Mich. May 21, 2020) (Edmunds, J.) (granting compassionate release from FCI Morgantown to defendant with chronic obstructive airway disease, hypertension, diabetes, coronary artery disease, prostatic hypertrophy, and congestive heart failure); *United States v. Doshi*, No. 2:13-cr-20349-AJT-LJM-1, 2020 WL 2556794 (E.D. Mich. May 20, 2020) (Tarnow, J.); *United States v. Agomuoh*, No. 5:16-cr-20196-JEL-RSW-1, 2020 WL 2526113 (E.D. Mich. May 18, 2020) (Levy, J.); *United States v. Al-Jumail*, No. 12-20272, 2020 WL 2395224, at \*6 (E.D. Mich. May 12, 2020) (Hood, C.J.); *United States v. Reddy*, No. 13-CR-20358, 2020 WL 2320093, at \*7 (E.D. Mich. May 11, 2020) (Leitman, J.) (“[T]he combination of Reddy’s other conditions – including Type II diabetes and hypertension – substantially increases her risk of dire medical consequences and/or death if she contracts COVID-19.”).

<sup>13</sup> See, e.g., *United States v. Cotinola*, No. 1:13-cr-03890-MV-1, 2020 WL 2526717 (D. N.M. May 18, 2020); *United States v. Sholler*, No. 17-CR-00181-SI-1, 2020 WL 2512416 (N.D. Cal. May 15, 2020); *United States v. Ennis*, No. 3:02-cr-01430-PRM-1, 2020 WL 2513109

## CONCLUSION

Isaac Hargrove's medical conditions have increased in severity. If there is an outbreak at FCI Hazelton, which may be possible given that the facility has tested only 24.8% of the 1,167 incarcerated people, this Court cannot be satisfied that the virus is not spreading undetected. Mr. Hargrove's motion for compassionate release should be granted.

Respectfully Submitted,

**FEDERAL COMMUNITY DEFENDER**

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Date: October 27, 2020

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(W.D. Tex. May 14, 2020); *United States v. Mattingley*, No. 6:15-cr-00005-NKM-JCH, 2020 WL 2499707 (W.D. Va. May 14, 2020); *United States v. Champagne*, No. 4:97-CR-089, 2020 WL 3472911, at \*5 (D.N.D. June 25, 2020) (“He has been diagnosed with chronic osteomyelitis, type 2 diabetes, hypertension, disease of the esophagus, and acute kidney failure. Individually, each is sufficiently serious to warrant compassionate release.”)

### **CERTIFICATE OF SERVICE**

Counsel certifies that on the above date, the foregoing paper was filed with the clerk of the Court using the ECF system, which will send notification to opposing counsel.

Respectfully Submitted,

**FEDERAL COMMUNITY DEFENDER**

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